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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,955	07/21/2004	Motofumi Kashiwagi	4918-0101PUS1	8685
2292 7590 05/20/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER GARRETT, DAWN L				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 05/20/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/501,955

Applicant(s)

KASHIWAGI ET AL.

Examiner

Dawn Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date 2-15-08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to the amendment filed February 15, 2008. Claims 5 and 6 were amended. Claims 2 and 8-20 are cancelled. Claims 1 and 3-7 are pending.
2. The terminal disclaimer filed on February 15, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 11/808,394 has been reviewed and is accepted. The terminal disclaimer has been recorded.
3. The rejection of claim 5 under 35 U.S.C. 112, first paragraph, set forth in the last Office action (mailed November 15, 2007) is withdrawn due to the amendment.
4. The rejection of claims 6 and 7 under 35 U.S.C. 112, second paragraph, set forth in the last Office action is withdrawn due to the amendment.
5. The rejection of claim 5 under obviousness-type double patenting over copending Application No. 11/808,394 is withdrawn due to the terminal disclaimer filed February 15, 2008.

Claim Objections

6. Claims 6 and 7 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 6 and 7 as now amended appear to be substantially duplicate to claims 3 and 4, respectively.

Claim Rejections - 35 USC § 102 and 103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is again rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Muller et al. (US 5,132,335; see entire document). Muller et al. teaches forming methacrylate polymers that are described as transparent after polymerization (see col. 3, lines 47-49). In claim 1, "for electroluminescence devices" is considered to be an intended use and not patentably significant. The polymers formed by Muller have perfluorocyclopentene rings as the sole perfluoroolefin component of the polymers (see column 4). The perfluorocyclopentene portions of the formed polymers are considered to read upon the "decomposition products of a perfluoroolefin" in claim 1. The polymers are described as a "coating" per the limitation of a "cover film". It would appear the described polymers all would have a light transmittance of 70% or larger in a wavelength band of 400 to 800 nm, since they are described as transparent. In the alternative that they are not all transparent, it would have been obvious to one of ordinary skill in the art to have selected a transparent polymer having a perfluorocyclopentene component to form a film, because Muller et al. teaches the polymers may be light transmissive. [Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773.

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Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430.]

9. Claims 3, 4, 6 and 7 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al. (US 5,132,335) in view of Nakamura et al. (US 5,427,858). Muller discloses teaches forming methacrylate polymers that are described as transparent after polymerization (see col. 3, lines 47-49). The polymers formed by Muller have perfluorocyclopentene rings as the only perfluoroolefin component of the polymers (see column 4) with regard to the amount of perfluorocyclopentene out of all perfluoroolefins used. The perfluorocyclopentene portions of the formed polymers are considered to read upon the "decomposition products of a perfluoroolefin" in claim 1. The polymers are described as a "coating" per the limitation of a "cover film".

The coatings are described for use in dental applications; however, Muller et al. does teach the materials are useful as coating agents and have large resistivity to physical and chemical stress (see col. 3, lines 53-59). Although Muller teaches these beneficial properties of the polymers, Muller is silent with respect to teaching specifically their use in organic electroluminescent devices to protect and to cover a device. Nakamura et al. teaches organic electroluminescence devices having a fluorine polymer layer (see title). The polymer layer is formed to protect the outer surface of the electroluminescence device structure (see abstract). With regard to the transmittance property in the visible spectrum, Nakamura et al. teaches the protection layer incorporated is transparent (see col. 5, lines 4-6). With regard to claims 3, 4, 6, and 7, the EL structure includes an electrode layer (anode or cathode), light emitting layer, a

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second electrode layer (anode or cathode) and the protective layer in order (see col. 10, line 26 to col. 13, line 14). Nakamura et al. teaches transparent materials for the electrode layers (see col. 10, line 35 to col. 11, line 13 and col. 12, lines 21-26). Although Nakamura et al. only specifically mentions *perfluoropropene*, Nakamura et al. teaches compounds such as perfluoropropene (which would include other perfluoro compounds such as polymers comprising perfluorocyclopentene portions) (see col. 7, lines 3-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the fluorine polymer film including perfluorocyclopentene taught by Muller for the Nakamura et al. device, because one would expect the Muller polymeric film to be useful as the encapsulation film for the Nakamura et al. since it is taught that the material used by Muller is very resistant to physical and chemical stress.

Allowable Subject Matter

10. Claim 5 is allowed. The prior art fails to disclose or to render obvious the process of forming an organic electroluminescence device comprising the step of forming a cover film using a material gas comprising perfluorocyclopentene by CVD under the operating parameters as recited.

Response to Arguments

11. Applicant's arguments filed February 15, 2008 have been fully considered but they are not persuasive.

Applicant argues with regard to the rejections over Muller that the “polymers of Muller et al. do include a perfluorocyclopentene ring, however, there is no possible way that these polymers would be considered decomposition products of perfluoroolefins”. The examiner

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submits applicant has not specifically claimed or described a particular decomposition method or intermediate decomposition product for forming the polymer of claim 1. A decomposition product of a perfluoroolefin that is perfluorocyclopentene, given its broadest interpretation, would include compounds or fragments of compounds comprising some atoms that are the same as atoms present within perfluorocyclopentene. Decomposition of perfluorocyclopentene could be as extensive as decomposition to the atomic level. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., use of a particular decomposition product and specific final polymer product structure) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, per M.P.E.P. § 2145, the arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geiseler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

In response to applicant's argument that the Muller teachings are applicable to the dental field, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. As stated in the rejection, it would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the fluorine polymer film including a perfluorocyclopentene derivative taught by Muller for the Nakamura et al. device, because one would expect the Muller polymeric film to be useful as the encapsulation

(protective) film for the Nakamura et al., since it is taught that the material used by Muller is very resistant to physical and chemical stress.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dawn Garrett/
Primary Examiner, Art Unit 1794